

**STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES**

**AIR RESOURCES DIVISION**

**CHAPTER Env-A 600 STATEWIDE PERMIT SYSTEM**

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Statutory Authority: RSA 125-C:6, VII, XIV, XV, RSA 125-C:8, RSA 125-C:11, I, II, III, IV, RSA 125-C:12, I, II, RSA 125-C:13, RSA 125-C:15.

**PART Env-A 601 PURPOSE**

Env-A 601.01 Purpose. This chapter is adopted for the purpose of regulating new and existing stationary sources of air pollution and the modification of existing sources such that the New Hampshire ambient air quality standards shall be achieved and maintained.

**PART Env-A 602 PERMIT TYPES AND DESCRIPTIONS**

Env-A 602.01 Temporary Permits.

- (a) A temporary permit, which contains conditions, shall be required prior to commencement of construction or installation of any new or modified device.
- (b) The temporary permit shall be in effect until a designated expiration date, or until a permit to operate is issued, unless sooner revoked by the director pursuant to Env-A 614. The expiration date for a temporary permit may be extended by the director if:
  - (1) The applicant has entered into binding agreements or contractual obligations which cannot be canceled or modified without substantial loss to the owner or operator; or
  - (2) The applicant has commenced but not yet completed construction by the original expiration date;
  - (3) Required testing is not complete by the designated expiration date;
  - (4) Actual construction has been completed by the designated expiration date but compliance testing has not been finalized;
  - (5) A request for an extension is received by the division prior to the

expiration date and the division does not have time to administratively process the request;

(6) The applicant is in the process of obtaining a permit or permits from another division; or

(7) The company is involved in litigation where the permit from another governmental agency has been issued and appealed.

(c) A temporary permit shall become invalid if construction is not started within 18 months of issuance. If construction is not completed within 18 months of the issuance of the temporary permit, the director may extend the 18 month period upon a showing of the situations listed in Env-A 602.01(b)(1-7).

#### Env-A 602.02 Permits to Operate.

(a) A permit to operate, which contains conditions, shall be issued with respect to a device for which a temporary permit is in effect.

(b) This permit shall be issued by the director and remain in effect until the designated expiration date or until sooner revoked by the director.

(c) "Permits to operate" shall be "final permits" as required by RSA 125-C:11, III.

### **PART Env-A 603 PERMITS REQUIRED.**

Env-A 603.01 Permits Required. No person shall cause or allow the commencement of construction or installation of a new or modified device or the operation of an existing device without having applied for and been issued a temporary permit or a permit to operate for each device specified in Env-A 603.02 and Env-A 603.03. Devices not specified in Env-A 603.02 and 603.03 shall be subject to all other rules contained in chapters Env-A 100 through Env-A 1300.

Env-A 603.02 Specified Devices Requiring Permits. Permits shall be required for the following:

(a) A device using natural gas, liquified petroleum gas, or #2 fuel oil or any combination thereof, with a designed rating greater than or equal to 10 million BTUs per hour of gross heat input;

(b) A device using #4 fuel oil with a designed rating greater than or equal to 4 million BTUs per hour of gross heat input;

- (c) A device using coal, wood, #6 fuel oil, waste oil or any combination thereof, with a designed rating greater than or equal to 2 million BTUs per hour of gross heat input;
- (d) An internal combustion turbine or engine with a designed rating greater than or equal to 200 horse-power output;
- (e) An incinerator using any combination of type 0, 1, 2, or 3 waste with a designed rating greater than or equal to 1000 pounds per hour;
- (f) An incinerator using any combination of type 4, 5, 6, and 7 waste with a designed rating greater than or equal to 200 pounds per hour;
- (g) A coating, metal cleaning, or printing device with a total VOC usage or VOC replacement rate greater than or equal to 1500 gallons per year;
- (h) An above-ground, vertical, VOC storage tank with a capacity greater than or equal to 40,000 gallons and containing VOCs with a true vapor pressure greater than or equal to 1.52 psia at 60° F;
- (i) A device for loading tank trucks with gasoline at a gasoline terminal with a throughput greater than or equal to 20,000 gallons per day;
- (J) A woodworking device employing a pneumatic transfer system, using a cyclone but no baghouse, for collecting any amount of sander dust at a total wood waste collection rate greater than or equal to 20 tons per year;
- (k) Pneumatic dust transfer equipment used to convey materials, other than wood waste, into bins or silos, and not using a baghouse or filter for controlling dust;
- (l) Gravel crushing and screening equipment with a throughput greater than or equal to 100,000 tons per year;
- (m) A rock, coal, or stone crusher with a throughput greater than or equal to 10,000 tons per year;
- (n) A source choosing to limit its potential to emit by accepting enforceable permit conditions which restrict its hours of operation, type or amount of material combusted, stored or processed or level of production.
- (o) A situation where documented and repeated violations occur of any of the applicable opacity or emission limits found in Chapters Env-A 100-1300;

(p) \* \* \*

Env-A 603.03 Other Devices Requiring Permits. Notwithstanding Env-A 603.02, permits shall be required for a device if:

(a) It is subject to the New Source Performance Standards contained In 40 CFR 60;

(b) It is subject to the National Emission Standards for Hazardous Air Pollutants contained in 40 CFR 61;

(c) It is subject to rules governing Prevention of Significant Deterioration contained in 40 CFR 51;

(d) It is subject to rules governing Non-Attainment Areas as contained in Env-A 610;

(e) It is subject to New Hampshire Hazardous Waste Rules promulgated under RSA 147-A;

(f) \* \* \*

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#### **PART Env-A 604 DEMONSTRATING CONFORMANCE**

Env-A 604.01 Demonstrating Conformance. The director shall require owners or operators of devices for which no permit is required to demonstrate that the devices conform to the applicable rules in Chapters Env-A 100 through 1300.

#### **PART Env-A 605 PERMIT APPLICATION PROCEDURES**

Env-A 605.01 Applicability. This part shall apply to applications for new, renewed, amended or transferred permits.

Env-A 605.02 Temporary permits.

(a) Application for a temporary permit shall be made to the director by completing and submitting forms provided by the division as described in Env-A 103.

(b) Applicants for temporary permits shall adhere to the following requirements:

(1) A separate permit application shall be submitted for each device; and

(2) All applications shall be accompanied by supplemental information including, but not limited to, a description of the stationary source, engineering plans, specifications and measurement data.

Env-A 605.03 Permits to operate. Application for permits to operate shall be made to the director by:

(a) Notifying the director in writing within 7 calendar days of the completion of construction of those devices for which temporary permits were issued. Said written notification shall serve as confirmation that construction is complete for purposes of this section.

(b) Completing and submitting forms, as described in Env-A 103, for those devices that required temporary permits but for which application for such permits was not made.

(c) Providing additional information as the director may deem necessary to make a final determination as to the issuance or denial of a permit to operate.

Env-A 605.04 Proof of Source Ownership. The director shall consider an application only when the applicant has demonstrated that it has title, right and interest in all of the property which is proposed for development or use, because it owns, leases or has binding options to purchase all of the property proposed for development or use. The applicant shall submit the following to demonstrate title, right and interest:

(a) Where the property is owned, book and page number references to the applicant's deed to the property; or

(b) Where the property is under option, copies of the option agreements, which agreements shall contain terms which establish future title; or

(c) Where the applicant's title, right, and interest is based on a lease, such lease shall be of sufficient duration, as determined by the director, to permit construction and reasonable use of the development.

Env-A 605.05 Proof of Legal Authority. The application shall include evidence that the individual preparing and submitting the application has the requisite authority to so act on behalf of the applicant, if the individual is not the person to whom the permit is proposed to be issued or in whose name the permit would be issued.

Env-A 605.06 Service. All applications shall contain a designation of an individual on whom all orders and notices may be served and to whom all other correspondence regarding the application should be sent. All orders and decisions issued by the director

pursuant to this chapter shall be sent by certified or registered mail, postage prepaid, return receipt requested.

Env-A 605.07 Acknowledgement and Completeness of Applications.

(a) The director shall notify the applicant as to the completeness of a permit application within 30 days of receipt of the application.

(b) An application shall not be deemed to be complete until all required information and documents specified by these rules have been submitted in proper form.

Env-A 605.08 Public Notice, Comment Procedures and Access to Information. The public notice, comment procedure and right to information, as well as other legal procedures concerning permits, shall be as specified in Env-A 205.

Env-A 605.09 Enforcement Action. Any owner or operator who constructs a new stationary source or modifies a stationary source not in accordance with the application requirements, without applying for and receiving approval from the director, shall be subject to appropriate enforcement action.

**PART Env-A 606 DIVISION REVIEW OF PERMIT APPLICATIONS**

Env-A 606.01 General Criteria Reviewed.

(a) All permit applications shall be reviewed to insure compliance with all applicable elements of the New Hampshire State Implementation Plan and these rules.

(b) All permit applications shall be subject to review under the provisions of the federal regulations for New Source Performance Standards, 40 CFR 60, NSPS, and National Emissions Standards for Hazardous Air Pollutants, NESHAP, 40 CFR 61.

(c) The division shall require an analysis of "Good Engineering Practice for Stack Height" for all devices having stacks for which permit applications are filed. The analysis shall follow federal standards for the minimum and maximum stack height criteria. An analysis for exhaust gas velocity shall also be required.

**PART Env-A 607 ADDITIONAL DIVISION REVIEW OF PERMIT APPLICATIONS UNDER THE BUBBLE CONCEPT**

Env-A 607.01 Description of the Bubble Concept. The "bubble" concept is an

alternative reduction option which allows a plant or industrial site to reduce individual emission controls when costs are high in exchange for an equal increase in controls where abatement is less expensive, in order to achieve the same amount of emission reduction required by the State Implementation Plan for less cost.

Env-A 607.02 Purpose of the Bubble Concept. The "bubble" concept provides for multiple process-related emission devices such as stacks, vents and ports which are individually subject to specific emission requirements under the New Hampshire State Implementation Plan, SIP, to be combined in a different mix of emission controls that shall still meet the total emission control requirements in the SIP.

Env-A 607.03 Owner or Operator Responsible for Preparing and Submitting Application. The owner or operator of the plant or industrial site shall be responsible for preparing and submitting an application for the alternative control approach. The application shall demonstrate that the proposal is equivalent in pollution reduction, enforceability, and environmental impact to existing individual process standards.

Env-A 607.04 Requirements for the Bubble Concept. All proposals for the alternative "bubble" concept shall meet the following criteria:

- (a) The application shall include an explicit demonstration, following standards and procedures established by the EPA, that total actual emissions shall not interfere with the attainment and maintenance of air quality.
- (b) Actual emissions shall be quantifiable and trade-offs shall be even. This criterion shall also apply to fugitive emissions.
- (c) Only trade-offs for the same specific pollutant shall be acceptable. For example, carbon monoxide shall not be traded for sulfur dioxide.
- (d) Different health or ambient air impacts shall not be traded against each other. For example:
  - (1) Certain hydrocarbon emissions such as benzene, which has been determined to be hazardous, shall not be traded against other hydrocarbon emissions.
  - (2) Emissions from open dust sources like roads or storage piles shall not be traded against emissions from stacks.
- (e) Specific limitations on each device shall be identified. A separate permit shall be issued for each device and that permit shall specify the absolute emission limit as a condition for issuing the permit.

- (f) For each specific emission limitation test set for each device, an enforceable EPA test method shall be required.
- (g) The proposal shall be restricted to devices which are either in compliance or not in compliance but meeting an approved compliance schedule.
- (h) The proposal shall not be used to delay or defer compliance deadlines but may be adopted to establish earlier compliance dates.
- (i) The proposal shall not cause a delay in existing enforcement actions.

Env-A 607.05 Review Procedure. For those devices for which no emission control is presently available, it is recognized that the "bubble" concept shall be a viable alternative. The use of the "bubble" concept to simply circumvent the application of any control method is not acceptable. The division shall review all applications for this alternative separately and on a case-by-case basis.

Env-A 607.06 EPA Approval Required. Division acceptance of each proposed alternative approach shall require final approval by the EPA.

## **PART Env-A 608 MINIMUM REQUIREMENTS FOR PERMITS**

Env-A 608.01 Requirements. Prior to the issuance of a temporary permit or a permit to operate, the owner or operator shall meet the following minimum requirements:

- (a) The owner or operator shall supply the information necessary to demonstrate that the device shall be in compliance with these rules;
- (b) The owner or operator shall conduct or have conducted a valid test for air pollutants, if one exists;
- (c) The owner or operator shall install and properly maintain a continuous emission monitoring system on any device, if so required by Env-A 800;
- (d) The device shall operate without endangering maintenance or attainment of any applicable air quality standard;
- (e) The device shall operate in accordance with all federal regulations to include New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants
- (f) The owner or operator of the stationary source shall pay to the division, for each device, a fee as specified in Env-A 700.



**PART Env-A 609     PREVENTION OF SIGNIFICANT DETERIORATION (PSD)  
OF AIR QUALITY PERMIT REQUIREMENTS.**

Env-A 609.01 Requirement Repealed. The former air resources commission revoked the PSD requirement on June 19, 1980.

On March 1982 the EPA delegated to the New Hampshire air resources agency (NHARA), as requested, the authority to assume responsibility for the administrative and technical portions of the federal regulations for PSD. NHARA will receive, conduct technical review, and process applications; however, issuance of final permits, as well as enforcement of these permits, will continue to be performed by EPA. All inquiries regarding the applicability of PSD regulations to facilities in New Hampshire should be made to NHARA.

**PART Env-A 610     ADDITIONAL REQUIREMENTS IN NON-ATTAINMENT  
AREAS AND THE NEW HAMPSHIRE PORTION OF THE  
NORTHEAST OZONE TRANSPORT REGION**

Env-A 610.01 Definitions.

(a) For the purposes of this part, the definitions contained in 40 CFR 51.165(a)(1) as revised June 28, 1989, including subsequent additions and revisions promulgated on July 21, 1992, shall apply with the following:

(1) exceptions:

- a. "Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group as, described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.
- b. "Installation" means an identifiable piece of process equipment.
- c. "Reasonable period", as used in the definition of net emissions increase specified in 40 CFR 51.165(a)(1)(vi)(C)(1) as revised June 28, 1989, means a period of 5 years.
- d. "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to

regulation under the Clean Air Act.

(2) and revisions:

a. “Major modification” means any modification to a major stationary source that results in significant increases in emissions of one or more applicable pollutants in accordance with the provisions of Env-A 610.03.

b. “Major stationary source” means any stationary source:

1. which emits or has the potential to emit 50 tons per year (TPY) or more of volatile organic compounds; or

2. which emits or has the potential to emit:

i. 50 TPY or more of nitrogen oxides if located in the four-county ozone classified nonattainment region; or

ii. 100 TPY or more of nitrogen oxides if located in New Hampshire, outside the four-county ozone classified nonattainment region; or

3. which emits or has the potential to emit 100 TPY or more of any other pollutant subject to regulation under the Clean Air Act.

c. “Significance level”, as specified in Env-A 610.03, means the minimum level of increase in emissions of a particular pollutant listed in Env-A 610.03 resulting from the modification, as defined in Env-A 101.90, of an existing major source such that the increase is significant, as defined in Env-A 610.01(b)(11).

(b) For the purpose of this part, the following additional definitions shall apply:

(1) “Emissions offset” or “offset” means a reduction in pollutant emissions achieved at an existing source for the purpose of allowing a new source or source modification to commence operations.

(2) “Emissions offset ratio” means the ratio of the total actual emissions reduction obtained from an offset, as defined in Env-A 610.01(b)(1), to the total allowable emissions increase of the subject pollutant from a new

source or source modification.

(3) “Extreme ozone nonattainment area” means any geographical area so designated for ozone by Section 107 of the Clean Air Act and classified by the EPA administrator as provided in Part D, Subpart 2, Section 181(a) of the Clean Air Act.

(4) “Four-County Ozone Classified Nonattainment Region” means the 4 counties in New Hampshire that have designated nonattainment classifications for ozone, namely:

- a. Hillsborough,
- b. Merrimack,
- c. Rockingham; and
- d. Strafford.

(5) “Marginal ozone nonattainment area” means any geographical area so designated for ozone by Section 107 of the Clean Air Act and classified by the EPA administrator as provided in Part D, Subpart 2, Section 181(a) of the Clean Air Act.

(6) “Northeast Ozone Transport Region” means, as defined by Part D, Subpart 2, Section 184(a) of the Clean Air Act, the geographical area comprising of the states of:

- a. Connecticut,
- b. Delaware,
- c. Maine,
- d. Maryland,
- e. Massachusetts,
- f. New Hampshire,
- g. New Jersey,
- h. New York,
- i. Pennsylvania,
- j. Rhode Island,
- k. Vermont; and
- l. the Consolidated Metropolitan Statistical Area that includes the District of Columbia.

(7) “Offset donor source” means a source, stationary or mobile, from

which a new or modified source obtains or seeks to obtain an emission offset.

(8) “Ozone season” means the continuous period between April 1 and October 31, inclusive.

(9) “Serious ozone nonattainment area” means any geographical area so designated for ozone by Section 107 of the Clean Air Act and classified by the EPA administrator as provided in Part D, Subpart 2, Section 181(a) of the Clean Air Act.

(10) “Severe ozone nonattainment area” means any geographical area so designated for ozone by Section 107 of the Clean Air Act and classified by the EPA administrator as provided in Part D, Subpart 2, Section 181(a) of the Clean Air Act.

(11) “Significant” means, in reference to a net emissions increase or potential to emit any of the pollutants listed in Env-A 610.03, a rate of emissions that would equal or exceed the rate specified in Env-A 610.03 for the applicable pollutant.

(12) “Three-county ozone not classified nonattainment region” means the 3 counties in New Hampshire that have been designated not classified nonattainment for ozone, namely:

- a. Belknap,
- b. Cheshire, and
- c. Sullivan.

Env-A 610.02 Applicability. All new major stationary sources and major modifications to existing stationary sources of criteria pollutants shall be subject to the applicable requirements of this part with the following exceptions:

- (a) The emissions of pollutants, other than volatile organic compounds or nitrogen oxides, for which the area is designated as being in attainment, or unclassifiable, which sources shall be subject to the PSD requirements specified in Part Env-A 609;
- (b) New sources or modifications with major source status resulting only from the inclusion of quantifiable fugitive emissions, as specified by and including the exceptions listed in 40 CFR 51.165(a)(4) as revised June 28, 1989.

- (c) Emissions of non-photochemically reactive volatile organic compounds that are listed in Env-A 1204.01.

Env-A 610.03 Pollutant Significance Levels for Source Modifications. The significance levels for specific pollutants for the purpose of determining the rule applicability status of major source modifications shall be as follows:

- (a) For sulfur dioxide, 40 TPY;
- (b) For particulate matter:
  - (1) 25 TPY for total suspended particulates; and
  - (2) 15 TPY for PM<sub>10</sub>, suspended particulates with aerodynamic diameter less than or equal to a nominal 10 micrometers.
- (c) For carbon monoxide, 100 TPY;
- (d) For lead, 0.6 TPY;
- (e) For volatile organic compounds:
  - (1) 25 TPY for the applicable pollutant for sources within the four-county ozone classified nonattainment region when the increase in net emissions of such air pollutant from such source is aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the most recent calendar year in which such increase occurred;
  - (2) 40 TPY for the applicable pollutant for sources in New Hampshire outside the four-county ozone classified nonattainment region;
- (f) For nitrogen oxides:
  - (1) 25 TPY for sources within the four-county ozone classified nonattainment region when the increase in net emissions of such air pollutant from such source is aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the most recent calendar year which such increase occurred;
  - (2) 40 TPY for sources in New Hampshire outside the four-county ozone classified nonattainment region.

Env-A 610.04 Permitting Requirements. Prior to the issuance of a permit or permits to a stationary source to which the requirements of this part apply, the division shall determine that the new or modified source will meet the following requirements:

(a) The source shall emit the applicable pollutant or pollutants at a rate that shall not exceed the lowest achievable emission rate for each pollutant subject to the provisions of this section:

(1) for each new emissions unit at a new major stationary source such that the aggregate of all such units emit or have the potential to emit major quantities of the subject pollutant, as specified in Env-A 610.01(a)(6); and

(2) for each new emissions unit and each modified emissions unit at a modified stationary source such that the net emissions increase from all such units equals or exceeds the significance level, for the subject pollutant, as specified in Env-A 610.03;

(b) The owner or operator of the new or modified source shall demonstrate that all major stationary sources in New Hampshire, which are owned or operated by such person or any entity controlling, controlled by, or under common control with such person, are subject to emission limitations and are in compliance, or are on a schedule for compliance which is federally enforceable or contained in a court decree, with all applicable emission limitations and standards under the Clean Air Act; and

(c) The source shall obtain sufficient emission reductions of the applicable pollutant or pollutants from other sources, including emitting units at the same facility such that the emissions from the new source or the net emissions increase from the modified source shall be less than the emission reductions in accordance with the provisions of Env-A 610.05.

Env-A 610.05 Emissions Offset Requirements.

(a) The baseline for this emission offset shall be the actual emissions of the source from which the offset credit is to be obtained;

(b) Offset credit shall not include:

(1) any reductions from compliance, or scheduled compliance, with applicable rules in effect prior to the permit application of the new or modified source; or

(2) reductions required to meet RACT or acid deposition provisions of the

Clean Air Act, as stipulated in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13553, III.G.2.e; or

(3) reductions required to meet any other provisions of the NH rules governing the control of air pollution and the Clean Air Act.

(c) For emissions of volatile organic compounds and nitrogen oxides, the following special offset provisions shall apply:

(1) New or modified sources seeking to locate in New Hampshire shall achieve emissions offset ratios of at least:

- a. 1.2 to 1 for sources seeking to locate in the four-county ozone classified nonattainment region; or
- b. 1.15 to 1 for sources seeking to locate outside the four-county ozone classified nonattainment region.

(2) Offsets obtained by new or modified sources seeking to locate in New Hampshire shall be restricted to the geographical areas described below:

- a. For sources seeking to locate within the four-county ozone classified nonattainment region and within a serious ozone nonattainment area, from offset donor sources that are located:
  - 1. within the same serious ozone nonattainment area; or
  - 2. within another serious, severe or extreme ozone nonattainment area, subject to the provisions of Env-A 610.05(c)(3).
- b. For sources seeking to locate within the four-county ozone classified nonattainment region and within a marginal ozone nonattainment area, from offset donor sources that are located:
  - 1. within the same marginal ozone nonattainment area; or
  - 2. within another marginal, moderate, serious, severe or extreme ozone nonattainment area, subject to the provisions of Env-A -610.05(c)(3).
- c. For sources seeking to locate within the three-county ozone not

classified nonattainment region, from offset donor sources that are located:

1. within the same three-county ozone not classified nonattainment region; or
2. within another not classified, marginal, moderate, serious, severe or extreme ozone nonattainment area, subject to the provisions of Env-A 610.05(c)(3).

d. For sources seeking to locate in Carroll, Coos or Grafton County, from offset donor sources anywhere within the northeast ozone transport region.

(3) Sources seeking to locate within the four-county ozone classified nonattainment region and the three-county ozone not classified nonattainment region shall fulfill the intent of Section 173(c)(1)(B) of the Clean Air Act by demonstrating that the emissions from the ozone nonattainment area in which the offset donor source is located contribute to a violation of the national ambient air quality standard in the ozone nonattainment area in which the new or modified source is seeking to locate.

(4) Offsets obtained outside New Hampshire shall be subject to the approval of the state or governing jurisdiction in which the offset donor source is located, as ensured by a federally enforceable permit, or other federally enforceable document.

(5) Offsets shall be acquired and implemented in accordance with the following procedure:

a. New or modified sources shall submit documentation to the division identifying the following:

1. Offset pollutant(s);
2. Actual annual and ozone season emissions estimates of each pollutant identified in Env-A 610.05(c)(5)a.1., above, during normal operation of the new or modified source;
3. Offset donor source(s) and location(s);
4. Actual annual and ozone season emissions estimates of



each pollutant identified in Env-A 610.05(c)(5)a.1., for the offset donor source(s) identified in Env-A 610.05(c) (5)a.3., above, during normal operation of the offset donor source, prior to the effective date of the offset(s); and

5. Actual annual and ozone season emissions estimates of each pollutant identified in Env-A 610.05(c)(5)a.1., for the offset donor source(s) identified in Env-A 610.05(c) (5)a.3., during normal operation of the new or modified source, that would occur after the effective date of the offset(s).

b. New or modified sources obtaining offset(s) from sources outside New Hampshire shall submit to the division documentation verifying that the offset donor source(s) has obtained a federally enforceable permit, or other federally enforceable document, for the emissions reduction control measures pertaining to the offset(s) for which the new or modified source is seeking approval.

c. The emissions reductions obtained from the offset donor source in accordance with Env-A 610.05(c)(5)a. and Env-A 610.05(c)(5)b., above, shall be:

1. ensured by a federally enforceable permit or other federally enforceable document; and

2. in effect no later than the date on which the new or modified source commences operations.

d. Documentation required pursuant to the provisions of this subparagraph shall be submitted as part of the permit application, as required under Chapter Env-A 600.

(d) The emission reduction credits shall conform to the provisions set forth in 40 CFR 51.165 as revised June 28, 1989.

Env-A 610.06 Reserved.

Env-A 610.07 Division Review, Public Notice and Opportunity for Comment.

(a) Owners or operators of new or modified sources shall file permit applications in accordance with the procedures set forth in part Env-A 605.

(b) All permit applications filed with the division shall be reviewed in accordance

with the criteria set forth in part Env-A 606.

(c) For permit applications subject to the additional requirements of this part, the following procedures shall supercede the public notice procedures specified in Env-A 205.02:

(1) Within 6 months of determining that a permit application is complete, within the meaning of Env-A 605.07, the director shall make a preliminary determination, in accordance with the provisions of chapter Env-A 600, to grant or deny a permit.

(2) The director shall:

a. Issue a public notice which shall be published in a newspaper of general daily statewide circulation and in a newspaper in the immediate area of the proposed source and shall contain the following information:

1. The name and address of the applicant;
2. A brief description of the air pollution device sought to be permitted;
3. for new sources, the emissions resulting from the installation;
4. for modified sources, the significant net emissions increase resulting from the modification;
5. for new or modified sources, the quantity and geographical location(s), in terms of street address, if applicable, or longitude and latitude, of the donor source(s) from which the offsets will be obtained;
6. the determination of LAER, including the type of equipment, such as a carbon adsorption system, and, if applicable, the prescribed emission limit;
7. the location where the information specified in Env-A 610.07(b)(3) may be examined, and the hours during which that examination may be conducted; and
8. The date by which, and the address where, written

comments and/or requests for an oral hearing shall be filed, said date to be not sooner than 30 days from the publication of said notice.

b. Send copies of the public notice to the following parties:

1. the applicant;
2. the EPA;
3. the appropriate official(s) of the city or town where the source would be located;
4. the regional planning agency, if applicable, where the source would be located; and
5. the Federal Land Manager.

c. Make available for public inspection, at a location in the immediate area of the proposed source, copies of the following materials:

1. All information, to the extent permitted by RSA 125-C:6, VII, submitted by the applicant;
2. The division's analysis of the effect of the proposed facility on air quality; and
3. The preliminary determination and all other materials, if any, considered in making the preliminary determination.

(d) Within 12 months after receipt of a complete application by the division, as required in Env-A 605.07, the director shall make a final determination, in accordance with the provisions of chapter Env-A 600, to grant or deny a permit.

Env-A 610.08 Relaxation of Limitation. At such time that a source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation, established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the provisions of this part shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Env-A 610.09 Owner Responsibility. Approval of an application with regard to the

requirements of this part shall not relieve the owner or operator of the responsibility to comply fully with other applicable provisions of these rules and any other requirements under local, state, or federal law.

## **PART Env-A 611      ASSIGNMENT, TRANSFER, OR AMENDMENT OF PERMITS**

Env-a 611.01 Definition. For the purposes of this chapter, "transfer" means the sale or lease of the property which is the subject of the permit, or the sale of 50 percent or more of the stock of or interest in a corporation or partnership which owns the property which is the subject of the permit, during the time the conditions of the permit are in operation and the owner of the property is subject to enforcement for violation of the permit.

### Env-A 611.02 Assignment or Transfer of Permits.

- (a) Any permit shall become void upon the transfer or assignment of the property covered by the permit unless written consent to transfer the permit is applied for and obtained from the director.
- (b) Such written consent shall be applied for within 2 weeks prior to any transfer or assignment of property which is subject to a permit.
- (c) Pending the director's determination on the application for approval of a transfer or assignment of ownership of any permit, the person to whom such property is transferred or assigned shall abide by all of the conditions of such permit, or such permit shall be rendered null and void. Applications for such transfer or assignment and the processing thereof shall be governed by these rules.
- (d) Any proposed transferee or assignee shall demonstrate the technical capacity to comply with all the conditions of the applicable permit and satisfy all applicable statutory criteria; and
- (e) Said transferee or assignee shall certify to the director financial capability to meet the above 2 requirements.

### Env-A 611.03 Amendment of Permits.

- (a) The holder of any temporary permit or permit to operate shall notify the director 30 days prior to any proposed change to the physical structure or operation of the device covered by the permit which increases or decreases the amount of a specific air pollutant emitted by such device or which results in the emission of any additional air pollutant. The director shall require the owner or operator to submit a new permit application in accordance with Env-A 605. The

change in the physical structure or operation of the device covered by the temporary permit or permit to operate shall not take place until the permit application is acted upon by the director pursuant to the requirements of Env-A 600.

(b) in the event of a failure to provide such notification, the director shall either suspend or revoke the permit pursuant to Env-A 209 or require the owner or operator of the device to submit a new application pursuant to Env-A 605.

## **PART Env-A 612 RENEWAL OF PERMITS**

### **Env-A 612.01 Permit Renewal Date Established.**

(a) The permit renewal date and frequency of renewal for each device shall be as specified in Env-A 612.02 through Env-A 612.04 for new or modified devices.

(b) All devices shall have an expiration date which shall be determined by the division. Devices currently operating under permits with a designated expiration date, may have that date revised by the division. Devices currently operating under permits with no designated expiration date shall have an expiration date established by the division.

(c) The division may extend the permit renewal date for a device if:

- (1) Required testing is not complete by the designated expiration date;
- (2) Actual construction has been completed by the designated expiration date but compliance testing has not been finalized;
- (3) Actual construction has commenced but not been completed by the original expiration date;
- (4) Actual construction has not commenced but the facility can provide written evidence that it has entered into binding agreements or contractual obligations which cannot be canceled or modified without substantial loss to the owner or operator;
- (5) A request for an extension is received by the division prior to the expiration date and the division does not have time to administratively process the request;
- (6) The applicant is in the process of obtaining a permit or permits from another division; or

(7) The company is involved in litigation where the permit from another governmental agency has been issued and appealed.

Env-A 612.02 Annual Permit Renewal for Devices of 1000 T/Yr. or More. Owners or operators of devices with actual emissions greater than or equal to 1000 tons, 907 metric tons, per year of the predominant air pollutant shall be subject to permit renewal every year on or before the expiration date designated in their permit.

Env-A 612.03 Two-Year Permit Renewal for Devices of 100 T/Yr. or More. Owners or operators of devices with actual emissions greater than or equal to 100 tons, 90.7 metric tons, but less than 1000 tons, 907 metric tons, per year of the predominant air pollutant shall be subject to permit renewal every 2 years on or before the expiration date designated in their permit.

Env-A 612.04 Three-Year Permit Renewal for Devices Less Than 100 T/Yr. Owners or operators of devices with actual emissions less than 100 tons, 90.7 metric tons, per year of the predominant air pollutant shall be subject to permit renewal every 3 years on or before the expiration date designated in their permit.

Env-A 612.05 Determination of Actual Emissions. The division shall determine the actual annual emissions from devices in this part by the use of EPA's Compilation of Air Pollutant Emission Factors, AP-42, as revised, incorporated herein by reference, in conjunction with the operating conditions specified on each permit, or by other test methods approved by the director or the EPA. As an alternative, the owner or operator of a device may determine its actual emissions through another method approved by the director or the EPA.

Env-A 612.06 Permit Renewal Fees. In addition to the permit renewal, owners or operators of devices shall pay to the division the appropriate fees as established in Env-A 705.

## **PART Env-A 613 INSPECTION AND COMPLIANCE**

Env-A 613.01 Inspection and Compliance. Authorized representatives of the division shall be granted access to the premises of the applicant or permittee at any reasonable time for the purpose of inspecting the proposed site and assuring compliance by the permittee with conditions of any permit issued pursuant to this chapter.

## **PART Env-A 614 CRITERIA FOR DENIAL, SUSPENSION AND REVOCATION OF PERMITS**

Env-A 614.01 Procedures. The procedures concerning denial, suspension, and revocation of permits shall be as established in Env-A 209.

Env-A 614.02 Application Denial. The director shall deny an application for a permit if, on the basis of available evidence, s/he determines:

- (a) That the device for which the permit is sought shall result in a violation of any provision of these rules including Env-A 609 and Env-A 610; or
- (b) That the device shall contribute disproportionately to pollution of the air in comparison with other currently available devices able to perform the same function.

Env-A 614.03 Permit Suspension or Revocation. The director shall suspend or revoke any permit issued by the division if, following a hearing, s/he determines:

- (a) That the permit holder has committed a violation of any rule, order, or permit conditions in force and applicable to it; or
- (b) That emissions from the device to which the permit applies, alone or in conjunction with other sources of the same pollutant or pollutants, presents an immediate danger to the public health.

Env-A 614.04 False Statements. Any permit granted in whole or in part based upon any information which is false or misleading shall, upon notice, be null and void.

## **PART Env-A 615 PUBLIC HEARING, REQUIREMENT**

Env-A 615.01 Public Hearing. In the event a public hearing is required to meet the requirements of this chapter, such a hearing shall be conducted by the division in the general geographic area for the stationary source in question after a 30 day public notification period.

## **PART Env-A 616 INTERSTATE AIR QUALITY IMPACTS**

Env-A 616.01 Special Emission Limitations. The division shall apply special emission limits to stationary sources on a case-by-case basis to insure that their air quality impacts on adjacent states shall not interfere with the measures taken in those states to prevent significant deterioration of air quality and shall not prevent the attainment or maintenance of National Ambient Air Quality Standards in those states.

\* \* \*

## **PART Env-A 622      ADDITIONAL REQUIREMENTS FOR SOURCES LOCATED IN A NON-ATTAINMENT AREA OR IN THE NEW HAMPSHIRE PORTION OF THE NORTHEAST**

## OZONE TRANSPORT REGION

### Env-A 622.01 Definitions.

(a) For the purpose of this part, the definitions contained in 40 CFR 51.165(a)(1), dated July 21, 1992, shall apply as follows:

(1) With the exception that “reasonable period”, as used in the definition of “net emissions increase” specified in 40 CFR 51.165(a)(1)(vi)(C)(1) as revised July 21, 1992, means a period of 5 years; and

(2) With revisions such that:

a. \* \* \*

b. \* \* \*

c. “Significance level”, as specified in Env-A 622.03, means the minimum level of increase in emissions of a particular pollutant listed in Env-A 622.03 resulting from the modification of an existing major source such that the increase is significant, as defined in Env-A 622.01(b)(11).

Env-A 622.02 Applicability. All new major stationary sources and major modifications to existing stationary sources of criteria pollutants shall be subject to the applicable requirements of this part with the following exceptions:

(a) Those new major stationary sources and major modifications to existing stationary sources with emissions of pollutants, other than volatile organic compounds or nitrogen oxides, in an area designated as being in attainment, or unclassifiable, shall be subject to the PSD requirements specified in 40 CFR 52.21;

Env-A 622.03 \* \* \*

\* \* \*

Env-A 622.04 Permitting Requirements. Prior to the issuance of a permit or permits to a stationary source to which the requirements of this part apply, the division shall determine that the new or modified source will meet the following requirements:

(a) \* \* \*

(b) \* \* \*



(c) \* \* \*

(d) The owner or operator of the new or modified source shall demonstrate that the benefits of the proposed source significantly outweighs the environmental and social costs imposed as a result of its location, construction, or modification by providing an analysis of alternative sites, sizes, production processes, and environmental control techniques in accordance with section 173(a)(5) of the Act.

Env-A 622.05 \* \* \*

Env-A 622.06 Implementation Plan Requirements. In accordance with section 173(a)(4) of the Act, the division shall not issue a permit or permits to a stationary source to which the requirements of this part apply if the administrator has determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified.

\* \* \*

## **PART Env-A 623      PREVENTION OF SIGNIFICANT DETERIORATION (PSD) OF AIR QUALITY PERMIT REQUIREMENTS**

Env-A 623.01 Purpose. The purpose of this part is to adopt by reference federal provisions regarding the implementation of preconstruction and premodification review procedures in order to determine whether the proposed construction or modification will cause or contribute to significant deterioration of air quality in the state. This is required of the department in order to comply with 40 CFR 51.166, 40 CFR 52.21 and RSA 125-C.

\* \* \*

Env-A 623.03 PSD Permit Requirements.

(a) In accordance with RSA 125-C:11, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w) shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of this part, the word “director” shall replace the word “administrator” except in the following paragraphs of 40 CFR 52.21:

(1) Paragraph (b)(17);

(2) Paragraphs (g)(1) through (6);

(3) Paragraph (l)(2); and

(4) Paragraph (t).

(c) Owners or operators of new or modified sources subject to this part shall file permit applications in accordance with the procedures set forth in Env-A 607.

(d) Permit applications subject to this part shall be subject to the public notice procedures set forth in Env-A 205.03.

Env-A 623.04 Designation of Class I and Class II Areas.

(a) Pursuant to 40 CFR 52.21(e)(1) and section 162 of the Act, the following areas shall be designated as Class I areas in New Hampshire:

(1) The Great Gulf Wilderness, of approximately 6,000 acres, as specified in P.L. 88-577; and

(2) The Presidential Range - Dry River Wilderness, of approximately 20,000 acres, as specified in P.L. 93-622.

Env-A 623.05 Division Review.

(a) The division shall notify an applicant within 30 days of receipt of the application as to the completeness of the application or any deficiency in the application or information submitted.

(b) In the event of a deficiency in a permit application, the date of receipt of the application shall be the date on which the division receives all required information.

(c) Within one year after receipt of a complete application, the director shall make a final determination of whether construction should be approved, approved with conditions, or disapproved.

Env-A 623.06 Incremental Consumption.

(a) The director shall periodically perform a review of increases in pollutant concentrations over the baseline concentrations, as that term is defined in 40 CFR § 52.21(b)(13), to determine whether the ambient air increments, as established in 40 CFR § 52.21(c), have been violated in any PSD area within the state.

(b) Within 60 days of the discovery of a violation of an ambient air increment, as

established in 40 CFR § 52.21(c), the director shall submit to the administrator a plan for insuring that the violation shall be mitigated as soon as possible.